

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LETHA M. HINES et al.

Appeal No. 1999-2325
Application 08/383,550

MAILED

SEP 14 2001

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

ORDER REMANDING TO EXAMINER

An amendment after final, Amendment E, was filed by applicants on June 28, 1996 (Paper No. 13). The examiner's Advisory Action entered July 26, 1996 (Paper No. 14) indicates that such amendment would not be entered. However, the examiner's Supplemental Advisory Action entered on August 2, 1996 indicates that such amendment would be entered upon appeal. Another amendment after final, Amendment F, was filed by applicants on January 2, 1997 (Paper No. 19). An Advisory action entered February 5, 1997 indicates that such amendment would be entered upon filing of an appeal. The Appeal Brief filed September 20, 1996 (Paper No. 17) on the first page indicates that "Claims 1, 12, 15, 16, and 17 were amended after final." and "The amendments were entered." Amendments E and F amend the claims that the Appeal Brief states are amended. The Examiner's Answer entered on May 7, 1997 (Paper No. 23) on the first

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page states "The appellant's statement of the status of amendments after final rejection contained in the brief is correct." A review of the record indicates, however, that the amendments have not yet been physically entered.

Moreover, the Appendix is defective because it must be a clean copy and cannot contain any proposed amendments therein. The Appendix is not a clean copy because it contains a proposed amendment to claim 15. An amendment must be presented as a separate paper, and then the amendment must be approved by the examiner. Moreover, claim 15 in the Appendix is not a correct statement of the claim because it does not incorporate the following Amendment E change to claim 15: "Claim 15, line 3, delete 'garment' and insert therefore --undergarment--." Additionally, claim 12 in the Appendix is not a correct statement of the claim because it does not incorporate the following Amendment F change: Claim 12, line 1, after "claim" delete "11" and insert after "claim" "9".

Accordingly, it is

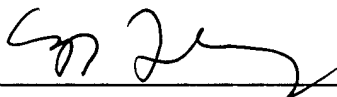
ORDERED that the application is remanded to the examiner for physical entry of Amendment E filed June 28, 1996 and Amendment F filed January 2, 1997 into the record, the submission by applicants of a separate paper containing the proposed Amendment to claim 15 which includes the missing Amendment E changes incorporated therein, consideration of such proposed Amendment, submission of a new Appendix incorporating the missing Amendment E and F changes and the proposed Amendment to claim 15, and for such further action as may be deemed appropriate.

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It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of the appeal (i.e., abandonment, issue, reopening prosecution).

**BOARD OF PATENT APPEALS
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